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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SIDNEY FRIEL, individually,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTER, INC.,
d/b/a SMITH'S, a Foreign Corporation;
DOES I through X, inclusive; and ROE
CORPORATIONS I through X, inclusive;

Defendants.

Case No.: 2:24-cv-00088-RFB-MDC

**PROPOSED STIPULATION AND
ORDER TO EXTEND DISCOVERY
PLAN AND SCHEDULING ORDER
(FOURTH REQUEST)**

Plaintiff, SIDNEY FRIEL, by and through her counsel of record, JOSEPH J. WIRTH, ESQ.,
ASH MARIE BLACKBURN, ESQ., JOSEPH W. GUINDY, ESQ., and TYLER A. BIXBY, ESQ.
of BLACKBURN WIRTH, LLP, and Defendant SMITH'S FOOD & DRUG CENTER, INC., by
and through its counsel of record, POOJA KUMAR, ESQ. of COOPER LEVENSON, hereby
submit the instant Stipulation and Order to Extend the Discovery Plan and Scheduling Order (Third
Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

I.

PROCEDURAL HISTORY

This lawsuit involves allegations that Plaintiff Sidney Friel suffered serious injuries related
to a slip and fall at the Smith's store located at 6855 N. Aliante Pkwy in North Las Vegas, Nevada.

Said store is owned and operated by Defendant Smith's Food and Drug Center, Inc. As a result of the slip and fall incident, on November 15, 2023, Plaintiff filed her Complaint against Defendant Smith's Food and Drug Center, Inc. in the Eighth Judicial District Court for Clark County, Nevada. On January 9, 2024, Defendant filed its Answer denying Plaintiff's allegations and denying all liability for the claimed injuries. On January 11, 2024, Defendant filed a Notice of Removal and removed the matter to this court based on diversity jurisdiction. On January 25, 2024, Plaintiff filed a Substitution of Counsel, replacing the firm Sandoval James & Walkenshaw with Blackburn Wirth, LLP. On February 9, 2024, the parties participated in the FRCP 26(f) conference and filed a Proposed Joint Discovery Plan and Scheduling Order which was entered by this court on February 22, 2024.

II.

DISCOVERY COMPLETED

To date, Plaintiff has completed the following discovery:

- Plaintiff's FRCP 26 Initial Disclosure, served February 9, 2024;
- Plaintiff's Proposed Joint Discovery Plan and Scheduling Order served on February 22, 2024;
- Plaintiff's Initial List of Witnesses and Production of Documents Pursuant to FRCP 26(a)(1) served on April 2, 2024;
- Plaintiff's First Set of Interrogatories to Defendant served April 23, 2024;
- Plaintiff's First Set of Requests for Production to Defendant served April 23, 2024;
- Plaintiff's First Set of Requests for Admissions to Defendant served May 15, 2024;
- Plaintiff's Response to Defendant First Set of Requests for Admission served June 3, 2024;
- Plaintiff's Response to Defendant First Set of Requests for Production of Documents served June 3, 2024;
- Plaintiff's Response to Defendant First Set of Interrogatories served June 3, 2024;
- Deposition of employee/witness Catherine Graham, taken June 26, 2024;

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- Plaintiff's First Supplemental FRCP 26 Disclosure, served July 3, 2024;
- Plaintiff's Supplemental Response to Defendant First Set of Interrogatories served August 13, 2024;
- Plaintiff's Second Supplemental FRCP 26 Disclosure, served August 13, 2024;
- Plaintiff's Second Set of Interrogatories to Defendant served August 16, 2024;
- Inspection of the subject premises dated October 2, 2024;
- Deposition of Defendant Smith's FRCP 30(b)(6) representative Shawn Light, taken October 22, 2024.

To date, Defendant Smith's Inc. has completed the following discovery:

- Defendant's Request for Admissions to Plaintiff, served April 26, 2024;
- Defendant's Request for Production of Documents to Plaintiff, served April 26, 2024;
- Defendant's First Set of Interrogatories to Plaintiff, served April 26, 2024;
- Defendant's First Supplement to its Initial Disclosure Statement served May 10, 2024;
- Defendant's Answers to Plaintiff's First Set of Interrogatories served June 3, 2024
- Defendant's Responses to Plaintiff's First Set of Requests for Production served June 3, 2024;
- Deposition of Plaintiff, taken August 14, 2024;
- Defendant's Second Supplement to its Initial Disclosure Statement served August 22, 2024;
- Defendant's Supplemental Responses to Plaintiff's First Set of Requests for Production served August 22, 2024;
- Defendant's Third Supplement to its Initial Disclosure Statement served August 27, 2024;
- Inspection of the subject premises dated October 2, 2024.

III.

DISCOVERY REMAINING TO BE COMPLETED

- Deposition of Smith's employee Debbie Grusman;

- Depositions of Plaintiff's treating providers;
- Initial expert designations;
- Rebuttal expert designations;
- Depositions of Initial and Rebuttal Experts;
- Additional FRCP 26 Disclosures.

This is a complex premise liability claim involving an alleged slip and fall on a foreign substance. The parties have diligently worked to move the case forward, including the exchange of multiple disclosures, a fact witness deposition, Plaintiff's deposition, an FRCP 30(b)(6) deposition, multiple sets of written discovery, and inspection of the subject premises, and disclosure of copies of Plaintiff's medical records. After exchanging Initial Disclosures pursuant to FRCP 26(f), the parties also sent and responded to written discovery requests. The first deposition in this case required a good amount of time and resources and set the timeframe of this case back from the very beginning. The deponent, Catherine Graham, was the primary employee responsible for the area in which Plaintiff slipped and fell. She was also in the aisle when the subject incident happened, thus her testimony would be the most relevant and beneficial to this case. However, she no longer works for Smith's and has since joined the armed forces, changed her last name through marriage, and moved to Georgia.

The deposition of Catherine Graham finally went forward on June 26, 2024. The deposition revealed additional information that needed to be produced by Defendant, including the potential identification of an employee seen on video surveillance, as well as additional documentation related to the maintenance of the store on the date of incident. The parties worked together diligently through numerous conferences to identify and disclose all of the additional information necessary to push this litigation forward.

Plaintiff's deposition went forward on August 14, 2024. Plaintiff is still treating for alleged injuries sustained in the incident. As such, additional medical records are being gathered and disclosed as quickly as possible. On October 2, 2024, after numerous meet and confers regarding scope and timing, the parties conducted an inspection of the subject premises.

On October 22, 2024, Plaintiff took the deposition of Defendant Smith's FRCP 30(b)(6) representative Shawn Light. The deposition revealed additional information to be produced by Defendant. The parties have since worked together to identify and disclose all additional information.

As it stands, there is extremely limited discovery to be completed and may not even be necessary to resolve this case. Since the previous extension of time, the parties engaged in informal settlement negotiations. However, the parties have agreed that private mediation would be the most fruitful way to stoke negotiations. As such, the parties were able to schedule a mediation on February 21, 2025. Due to the limited availability of private mediators, as well conflicting availability of counsel, that was the earliest mutually agreeable date. The requested extension will give the parties time to conduct said mediation prior to incurring potentially unnecessary costs of retaining expert witnesses.

With the current discovery deadlines rapidly approaching, specifically the initial expert deadline, and the parties successfully scheduling a mediation of this matter, the parties have agreed to a sixty (60) day discovery extension. As expert witnesses will be necessary as it relates to liability, causation, and damages, the requested extension is certainly necessary and not requested for any dilatory motive. This extension will allow the parties to complete all outstanding discovery, move this case closer to trial, and hopefully reach an early resolution.

IV.

PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE

	Current Date	Proposed Date
Discovery Deadline:	04/07/2025	06/06/2025
Motions to Amend Pleadings/	CLOSED	CLOSED
Add Parties:		
Initial Expert Disclosures:	02/04/2025	04/07/2025
Rebuttal Expert Disclosures:	03/10/2025	05/09/2025

1	Dispositive Motions:	05/05/2025	07/07/2025
2	Joint Pre-Trial Order:	06/06/2025	08/05/2025

3 This is the fourth request for an extension of time in this matter and no trial date will be
 4 impacted by the extension as no such trial date has been set. The parties submit that the reasons set
 5 forth above constitute good cause for the requested extension.

6 Dated this 19th day of December, 2024.

Dated this 19th day of December, 2024.

7 **BLACKBURN WIRTH, LLP**

COOPER LEVENSON

8
 9 /s/ Tyler A. Bixby
 10 TYLER A. BIXBY, ESQ.
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/s/ Pooja Kumar
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Attorney for Defendant

13
 14 **ORDER**

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 16 **IT IS SO ORDERED.**

17 DATED this 20th day of December, 2024.

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 24 Hon. Maximiliano D. Couvillier III
 UNITED STATES MAGISTRATE JUDGE
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